



State of Washington REPORT OF EXAMINATION FOR WATER RIGHT CHANGE

File NR: CS3-20932C@1
WR Doc ID: 5523398

PRIORITY DATE March 20, 1973	WATER RIGHT NUMBER S3-20932C	BEGIN TRUST TERM April 1, 2014	END TRUST TERM March 31, 2018
WATER RIGHT OWNER Washington Water Trust 1530 Westlake Ave N, Ste 400 Seattle, WA 98109		SITE ADDRESS (IF DIFFERENT)	

Purpose and Quantity

Instream flow allocated to primary and second reaches in the following manner:

Primary Reach: 0.88 cubic-feet per second (cfs), 128 acre-feet per year (afy).

Secondary Reach:

Month	APR	MAY	JUN	JUL	AUG	SEP	OCT	Total
Acre-Feet Per Month	0.0	0.0	17.7	34.27	25.48	18.55	0.0	96.0
CFS	0.0	0.0	0.30	0.56	0.41	0.31	0.0	1.58

Trust Water Right Place of Use (See Attachment 1)

WATERBODY	TRIBUTARY TO	COUNTY	WATER RESOURCE INVENTORY AREA
Rattlesnake Creek	White Salmon River	Klickitat	29 – Wind/White Salmon

REACH	WATERBODY	TWN	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Begin Primary Reach	Rattlesnake Creek	4N	11	10	NW SE	121°24'37.76"W	45°50'54.354"N
End Primary Reach	Rattlesnake Creek	4N	11	10	SW SE	121°24'53.107"W	45°50'40.603"N
Begin Secondary Reach	Rattlesnake Creek	4N	11	10	SW SE	121°24'53.107"W	45°50'40.603"N
End Secondary Reach	Rattlesnake Creek	4N	11	10	SE SW	121°25'4.707"W	45°50'30.31"N

Latitude/Longitude Coordinates may approximate reach segments.

Datum: NAD83/WGS84

Primary Reach: Beginning at the historic point of diversion and ends at a location approximately 1900 feet downstream on Rattlesnake Creek within the NW¼SE¼ of Section 10, T. 4 N., R. 11 E.W.M.

Secondary Reach: Beginning at the end of the Primary Reach, and ends at a point approximately 1350 feet downstream on Rattlesnake Creek within the SE¼SW¼ of Section 10, T. 4 N., R. 11 E.W.M.

Real Estate Excise Tax

This decision may indicate a Real Estate Excise Tax liability for the seller of water rights. The Department of Revenue has requested notification of potentially taxable water right related actions, and therefore will be given notice of this decision, including document copies. Please contact the state Department of Revenue to obtain specific requirements for your project.

Department of Revenue
Real Estate Excise Tax
PO Box 47477
Olympia WA 98504-7477

Phone: (360) 570-3265
Internet: <http://dor.wa.gov/>
E-mail: REETSP@DOR.WA.GOV

Findings of Facts and Decisions

Upon reviewing the investigator's report, I find all facts relevant and material to the subject application have been thoroughly investigated. Furthermore, I find the change of water right as recommended will not be detrimental to existing rights or detrimental to the public interest.

Therefore, I ORDER the requested change of place and purpose of use under Trust Water Right Application No. CS3-20932C@1, be approved subject to existing rights and the provisions specified above.

YOUR RIGHT TO APPEAL

You have a right to appeal this Decision to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Decision. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Decision:

- File your appeal and a copy of this Decision with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Decision on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey WA 98503 Pollution Control Hearings Board 1111 Israel Road SW, Suite 301 Tumwater WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia WA 98504-0903

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>

To find laws and agency rules visit the Washington State Legislature Website: <http://www.leg.wa.gov/CodeReviser>

Signed at Yakima, Washington, this _____ day of _____, 2014.

Robert F. Barwin, Acting Section Manager
Water Resources Program/CRO

If you need this document in a format for the visually impaired, call the Water Resources Program at 509-575-2490. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

INVESTIGATOR'S REPORT

BACKGROUND

On October 26, 2012 Washington Water Trust, on behalf of Frank D. Markgraf, filed an application to temporarily change the purpose of use and place of use for water right certificate S3-20932C. On September 4, 2012 Washington Water Trust, working as an agent for Ecology executed a lease agreement. The application was accepted the change application and assigned it identifier No. CS3-20932C@1.

EXISTING Water Right Attributes

Water Right Owner:	Frank D. Markgraf
Priority Date:	March 20, 1973
Place of Use	NE¼ and the NW¼SE¼ of Section 10, T. 4 N., R. 11 E. W. M.

County	Waterbody	Tributary To	WRIA
Klickitat	Rattlesnake Creek	White Salmon River	29-Wind/White Salmon

Purpose	Rate	Unit	Ac-ft/yr	Begin Season	End Season
Irrigation of 50 acres	0.88	CFS	166	04/01	09/30

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Rattlesnake Creek	04111000000100	4N	11E	10	SE NE	121°24'34.936"W	45°50'54.119"N

CFS = Cubic Feet per Second; Ac-ft/yr = Acre-feet per year; Sec. = Section; QQ Q = Quarter-quarter of a section; WRIA = Water Resource Inventory Area; E.W.M. = East of the Willamette Meridian; Datum in NAD83/WGS84.

REQUESTED Water Right Attributes

Applicant Name:	Frank D. Markgraf
Date of Application:	October 26, 2012
Place of Use	Instream flow for Rattlesnake Creek.

County	Waterbody	Tributary To	WRIA
Klickitat	Rattlesnake Creek	White Salmon River	29-Wind/White Salmon

Purpose	Rate	Unit	Acre-feet/yr	Begin Season	End Season
Instream Flow	0.88	CFS	166	04/01	09/30

Source Name	Parcel	Twp	Rng	Sec	QQ Q	Latitude	Longitude
Rattlesnake Creek	04111000000100	4N	11E	10	SE NE	121°24'34.936"W	45°50'54.119"N

Legal Requirements for Requested Change

The following is a list of requirements that must be met prior to authorizing the proposed change in purpose and place of use.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the White Salmon Enterprise on May 15th and May 22nd, 2014. No comments or protests were received.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic-foot per second (cfs), unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cfs so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute (gpm);
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

Water Resources Statutes and Case Law

RCW 90.03.380(1) states that a water right that has been put to beneficial use may be changed. The point of diversion, place of use, and purpose of use may be changed if it would not result in harm or injury to other water rights.

The Washington Supreme Court has held that Ecology, when processing an application for change to a water right, is required to make a tentative determination of extent and validity of the claim or right. This is necessary to establish whether the claim or right is eligible for change. *R.D. Merrill v. PCHB* and *Okanogan Wilderness League v. Town of Twisp*.

RCW 90.42 authorizes Ecology to hold water rights in trust.

Investigation

The following information was obtained from research of Department of Ecology (Ecology) records, review of aerial photographs, and a site visit conducted by Jacquelyn Metcalfe and Candy Graff on June 23, 2014.

History of Water Use

In order to make a water right change decision, Ecology must make a tentative determination on the validity and extent of the right. Under RCW 90.14.160, the failure to divert or withdraw water for any period of five (5) successive years after September 1, 1967 without sufficient cause, shall relinquish such right or portion thereof, and said right of portion thereof shall revert to the state.

According to Ecology records, on March 20, 1973 Frank D. Markgraf applied to Ecology to appropriate 0.88 cubic feet per second (cfs) of water from Rattlesnake Creek. This water was used for the irrigation of 50 acres of alfalfa from April 1 through September 30.

The water has been historically diverted from a single point on Rattlesnake Creek with a 20 horse power electric pump, and a sprinkler system was used to deliver water for the alfalfa fields.

On September 28, 2009 an application was submitted to the Department of Ecology (Ecology) to donate 0.88 cfs and 166 acre-feet per year (afy) to instream flow for Rattlesnake Creek to the Pacific Ocean. The water was to be made available by the flowing of 50 acres. The donation was accepted into the State Trust Water Rights Program and expired March 31, 2013.

On October 26, 2012 Ecology received an application from Washington Water Trust, on behalf of Frank D. Markgraf, to temporarily change the place of use and purpose of use for Water Right No. S4-20932C to instream flow.

At the site visit, no evidence of irrigation was found at the authorized place of use, which is substantiated by the water right being donated from 2009-2013.

After review of Ecology records, aerial photographs, and a site visit conducted on June 23, 2014 indicate that approximately 50 acres have been consistently irrigated or more recently, donated to the Trust Water Rights Program for instream flow purposes.

Proposed Use

The applicant proposes to fallow 50 irrigated acres of alfalfa production. The water attributed to those 50 acres will be put into the State Trust Program from April 1 through September 30.

Other Water Rights

There are no other water rights appurtenant to the place of use. There is one diverter located on Rattlesnake Creek downstream of the Markgrafs historic point of diversion. Water Right Claim No. S4-031370CL has a priority date of 1903, and asserts a right to withdraw 0.69 cfs, 120 afy, for the irrigation of 40 acres.

Trust Water Calculations

Ecology describes instream flow water rights by defining two stream reaches known as the primary and secondary reach. The primary reach is the length of stream between the historic point of diversion and where any of the water historically diverted, and not consumed, returns to the stream. The secondary reach is defined as that length of stream which benefits from a reduction in consumptive use. The secondary reach typically begins at the downstream end of the primary reach and continues downstream to a point determined by Ecology.

The primary reach for the proposed change begins at the historic point of diversion and ends at a location approximately 1900 feet downstream on Rattlesnake Creek within the NW¼SE¼ of Section 10, T. 4 N., R. 11 E.W.M. The secondary reach begins at the end of the Primary Reach, and ends at a point approximately 1350 feet downstream on Rattlesnake Creek within the SE¼SW¼ of Section 10, T. 4 N., R. 11 E.W.M.

The water duty authorized for certificate S3-20932C is 0.0176 cfs and 3.32 acre-feet per acre. The Washington State Irrigators Guide (WIG) at the Goldendale monitoring station estimated that the crop requirement (CIR) for alfalfa is 1.41 feet per year. Factoring in an average application efficiency of 65% for the use of sprinklers, the total irrigation requirement is 2.56 afy. To irrigate 50 acres of alfalfa the water duty is 0.88 cfs and 128 afy. Therefore, the proposed fallowing of 50 acres will add 0.88 cfs, 128 afy to the primary reach from April 1 through September 30.

The benefit to instream flow for the secondary reach will vary throughout the irrigation season based on historic irrigation practices. The consumptive use associated with the fallowing of 50 acres was calculated using the WIG and Ecology's Guidance Document 2010. An average application efficiency of 65% was selected based on the use of sprinklers with an evaporation percentage of 0.10 (10 percent). The following table identifies the trust water quantities by month for the Secondary Reach.

Month	APR	MAY	JUN	JUL	AUG	SEP	OCT	Total
Acre-Feet Per Month	0.0	0.0	17.7	34.27	25.48	18.55	0.0	96.0
CFS	0.0	0.0	0.30	0.56	0.41	0.31	0.0	1.58

Considerations of Protests and Comments

No protests were filed against this application.

Conclusions

After review of the evidence the author makes the determination that water right S3-20932C represents a valid right to divert water from Rattlesnake Creek is eligible for change.

Approval of this change of purpose of use and place of use will not cause impairment of existing rights or be detrimental to the public interest.

RECOMMENDATIONS

Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts below and within the limitations and provisions listed on page 1-4.

- Temporary Instream Flow Water Right (April 1, 2014 – March 31, 2018):

Primary Reach: 0.88 cfs and 128 ac-ft/yr beginning at the historic point of diversion and ending at a location approximately 1400 feet downstream on Rattlesnake Creek within the NW¼SE¼ of Section 10, T. 4 N., R. 11 E.W.M.

Secondary Reach: beginning at the end of the Primary Reach and ending at a point approximately 1350 feet downstream on Rattlesnake Creek within the SE¼SW¼ of Section 10, T. 4 N., R. 11 E.W.M.

Month	APR	MAY	JUN	JUL	AUG	SEP	OCT	Total
Acre-Feet Per Month	0.0	0.0	17.7	34.27	25.48	18.55	0.0	96.0
CFS	0.0	0.0	0.30	0.56	0.41	0.31	0.0	1.58

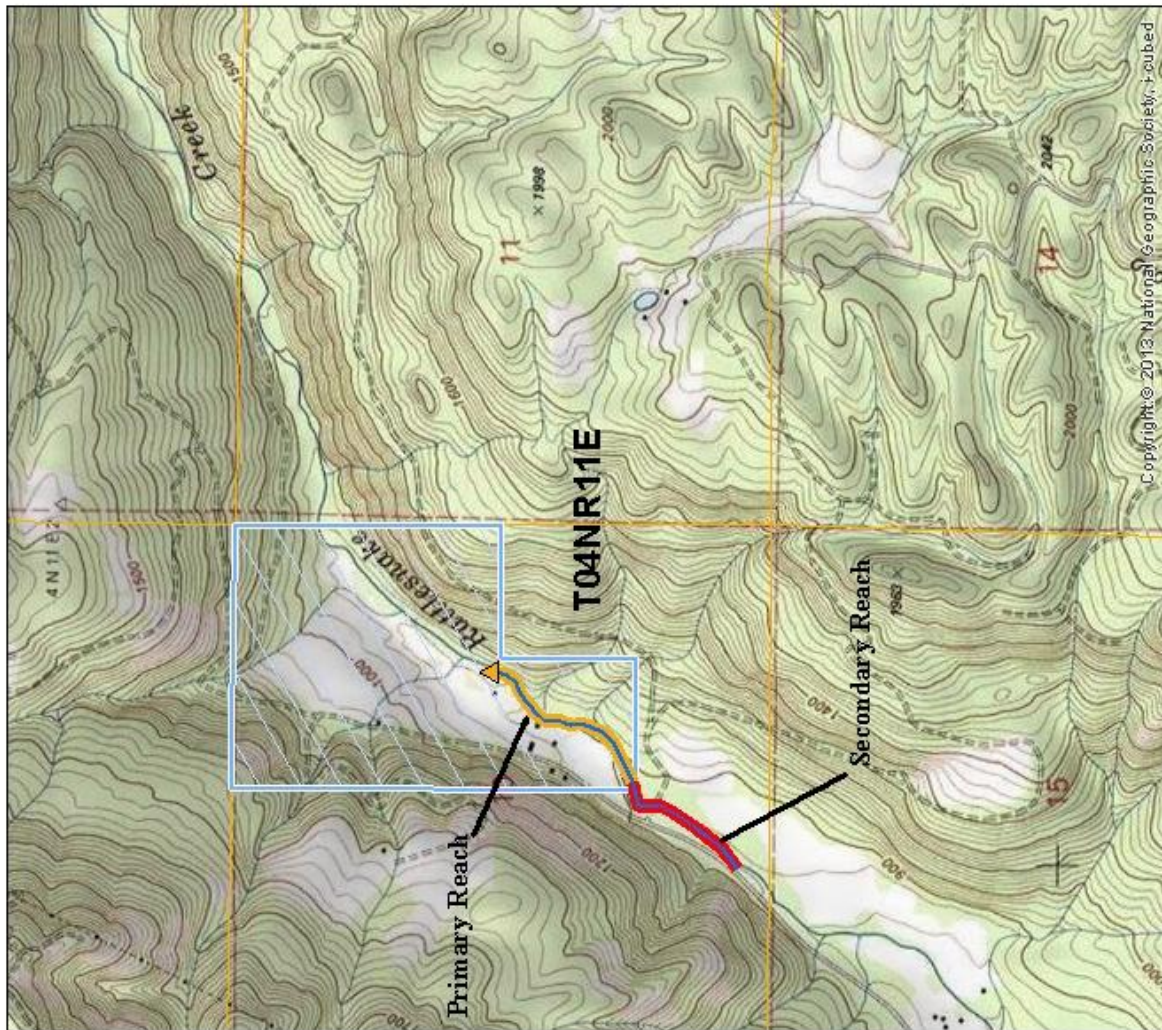
Recommended by:

Jacquelyn M Metcalfe

Date

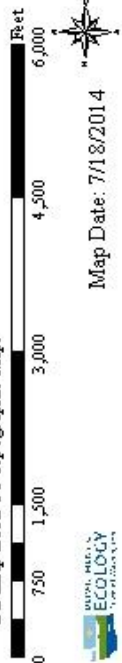
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Washington Water Trust
CS3-20932C@1
T04NR11E
WRIA 29 – Wind/White Salmon



- Legend**
- Authorized Place of Use
 - Townships
 - Sections
 - WRIA
 - Countries
 - Historic Point of Diversion
 - Primary Reach
 - Secondary Reach

Basemap: ESRI US Topographic Maps



Map Date: 7/18/2014

Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.